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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

THE ALASKA HOTEL, RESTAURANT AND
CAMP EMPLOYEES HEALTH AND WELFARE
TRUST FUND,

Plaintiff,
vs.

CORSAIR, INC.,

Defendant.

Case No. 3:11-cv-_____

COMPLAINT

COMES NOW Plaintiff, by and through its attorneys, JERMAIN, DUNNAGAN & OWENS, P.C., and for its cause of action against the Defendant, complains and alleges as follows:

I.
INTRODUCTION

1. **Cause of Action.** This action arises under §§ 502(a)(3), 502(e)(1) and 515 of the Employee Retirement Income Security Act, *as amended*, 29 U.S.C. §§ 1132(a)(3), 1132(e)(1) and 1145, hereinafter referred to as "ERISA," and Section 301 of the Taft-Hartley

Act (29 U.S.C. §§ 1132 ad 185). Jurisdiction is founded on the existence of questions arising thereunder.

II. THE PARTIES

2. **Plaintiff.** Plaintiff is the Alaska Hotel, Restaurant and Camp Employees Health and Welfare Trust Fund.

3. **Standing.** The Plaintiff is entitled to bring this suit pursuant to § 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1).

4. **Defendant.** Upon information and belief, Defendant Corsair, Inc. did business in the state of Alaska at the time of the events set forth in this complaint.

5. At all times relevant to this suit, Defendant Corsair, Inc. was an employer as that term is defined at § 3(5) of ERISA, 29 U.S.C. § 1002(5).

III. ERISA CAUSE OF ACTION

6. Defendant Corsair, Inc. is, and has been at all times relevant to this complaint, signatory to a Collective Bargaining Agreement ("CBA") with Hotel Employees, Restaurant Employees Union Local 878 of the Hotel Employees, Restaurant Employees International Union AFL-CIO, as that term is referenced at § 515 of ERISA, 29 U.S.C. § 1145. Said CBA requires compliance with the terms of trust agreement ("Agreement") that pertain to health and welfare benefits. The Agreement of the respective trust is a writing that complies in all respects with requirements of § 302 of the LMRA, 29 U.S.C. § 186(c)(5).

7. Pursuant to the CBA and Agreement to which Defendant Corsair, Inc. is bound, Defendant employed persons within the trade and territorial jurisdiction of the CBA and

the Agreement, and thereby became obligated to submit timely reports and those benefit contributions required by said Agreement to the trust funds on a monthly basis.

8. The Agreement requires Defendant to report all hours worked by all covered employees and to make monthly contributions to the Health and Security Fund as set forth in the CBA and Agreement.

9. The Agreement and § 502(g)(2) of ERISA, 29 U.S.C. § 1132(g) require Defendant Corsair, Inc. to pay: all costs incurred in conducting an audit of defendant's payroll records, if any; liquidated damages for failure to make reports and tender contributions in accordance with the term of the Agreement; interest; reasonable attorney fees and those costs incurred where defendant has failed to fully comply with the CBA and the Agreement.

10. Plaintiff has fully performed all necessary obligations and duties under said Agreement.

11. Defendant Corsair, Inc. has breached the CBA and the Agreement in the following respects:

(a) by failing to submit monthly reports and contributions in an amount to be proven at trial for the months of March 2011 to present;

(b) by failing to pay interest on delinquent contributions for the months of November 2010 and March 2011 through the present at the contract rate of twelve percent (12%) per annum from the date that contributions were due until judgment;

(c) by failing to pay liquidated damages related to the delinquencies for the months of November 2010 and March 2011 through the present, in an amount to be proven at trial,

(d) by failing to pay liquidated damages in the amount of \$915.28 (October 2009–December 2009) and \$872.99 (September 2010–October 2010) relating to delinquent contributions that were held in abeyance pending successful compliance with a settlement agreement, and that are now due to Plaintiff based on Defendant Corsair's failure to timely submit reports and contributions in breach of that agreement.

WHEREFORE, plaintiff prays for judgment against Defendant Corsair, Inc. as follows:

1. That Defendant be ordered to submit the monthly reports for the months of March 2011 to present.
2. That this Court enter judgment against Defendant awarding Plaintiff delinquent contributions owing as proven at trial, plus interest at the contract rate of twelve percent (12%) per annum, liquidated damages, costs and attorney fees in accordance with the terms of the CBA, trust agreement, and 29 U.S.C. §1132(g)(2).
3. For such other and further relief as the Court deems just and equitable in the circumstances.

DATED at Anchorage, Alaska on the 31st day of August, 2011.

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